

HOUSE No. 3484

The Commonwealth of Massachusetts

PRESENTED BY:
Kevin J. Murphy

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General

Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to terror free pension investment.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Kevin J. Murphy	18th Middlesex
Kathi-Anne Reinstein	16th Suffolk

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO TERROR FREE PENSION INVESTMENT.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1: Definitions

As used in this act, the following terms apply:

(a) "Business Ties" are defined as owning or controlling property or assets located in, having employees or facilities located in, providing goods or services to, obtaining goods or services from, having distribution agreements with, issuance of credit or loans to, purchasing bonds or commercial paper issued by, investing in or having equity ties to or with Iran, North Korea, Sudan, Syria or any company domiciled in Iran, North Korea, Syria, Sudan or their affiliates thereof.

(b) "Company" is any entity capable of affecting commerce, including but not limited to a government, government agency, natural person, legal person, sole proprietorship, partnership, firm, corporation, subsidiary, affiliate, franchisor, franchisee, joint venture, trade association, financial institution, utility, public franchise, provider of financial services, trust, or enterprise any association thereof.

(c) "Global Security Risk Prohibitive Company" is any foreign company that has active or current business ties in or with Iran, North Korea, Sudan and Syria as determined by an independent, third-party research firm that specializes in global security risk.

(d) "Independent, third-party research firm" means a private U.S. company that has submitted an affidavit to the PRIM Board averring that: 1) it specializes in identifying and assessing companies that are exposed to global security risk; 2) it offers credible research on corporate ties to Iran, Syria, Sudan and/or North Korea that has been maintained and provided to the market for a minimum of one calendar year; and 3) does not have the potential for conflicts of interest stemming from investment banking and corporate finance activities.

(e) "Iran" refers to the Islamic Republic of Iran.

(f) "North Korea" refers to the Democratic People's Republic of North Korea.

(g) "Sudan" refers to the Islamic Republic of Sudan.

(h) "Syria" refers to the Syrian Arab Republic.

(i) "Public investor" or "public investors" means the treasurer of state and the PRIM Board and their employees.

SECTION 2: Chapter 23 of section 32 in the 2006 Official Edition of the General Laws shall be amended by adding the following paragraph after paragraph (h):-

"(i) All international equity holdings within the PRIT shall exclude global security risk prohibitive companies as defined in SECTION 1 of this act. Companies that are certified as NGOs by the UN, or that, according to an, independent, third-party research firm, engage solely in the provision of goods and services that relieve human suffering or promote health or religious, spiritual, educational, humanitarian, or journalistic activities in Iran, North Korea, Sudan or Syria are exempt from divestment and exclusion; and further provided, that the provisions of this paragraph shall expire relative to each specific country individually at such time the President of the United States affirmatively and unambiguously states, by means including, but not limited to, enacted legislation, executive order or written certification from the President to Congress, that the U.S. Department of State no longer recognizes Iran, North Korea, Sudan and Syria as state sponsors of terrorism."

SECTION 3: The PRIM Board shall release a series of Requests for Proposals (RFPs) to investment managers for the establishment of international actively or passively managed equity investment strategies that identify and exclude all global security risk prohibitive companies; and further provided, that the Requests for Proposals shall stipulate that as a requisite for being selected to manage an international equity portfolio on behalf of PRIT, the respondent must attest that no global security risk prohibitive companies will be included in the portfolio held on behalf of PRIT and provide their plan for ensuring compliance; and further provided, that the Requests for Proposals shall be released within 90 days of the passage of this act.

SECTION 4: At or before January 31st, 2008, PRIM shall select managers for its international equity holdings that respond to the Requests for Proposal and, in PRIM's view, are best suited to manage international equity portfolios while excluding global security risk prohibitive companies. Each manager selected will certify to PRIM that the portfolio excludes global security risk prohibitive companies on a quarterly basis; and further provided that a public investor that finds that a manager with which it has contracted has not complied with the divestiture requirement or holds global security risk prohibitive companies on behalf of PRIM at any future time, shall notify the manager that it has ninety (90) days to become complaint. If the manager fails to comply within that 90 day period, PRIM shall immediately issue a new Request for Proposal and terminate the contract with the manager. The entity shall be suspended from conducting business with any public investor for a period of six months commencing from the acceptance of the new manager's contract.

SECTION 5: A public investor is not liable for breach of the public investor's fiduciary duty to the fund for which that public investor has the authority to invest assets by reason of any decision to restrict,

60 reduce, or eliminate investments in corporations doing business in Iran, Syria, Sudan or North Korea in
61 accordance with the requirements of this act.